

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

JOANN WRIGHT HAYSBERT)	
Plaintiff,)	
v.)	
)	
BLOOMIN' BRANDS, INC., et al.)	Case No.: 4:20-cv-00121-RBS-RJK
)	
Defendants.)	

DEFENDANTS' OBJECTION AND MOTION TO QUASH A WITNESS SUBPOENA

COMES NOW, the defendants Outback Steakhouse of Florida, LLC and Bloomin Brands, Inc. and hereby submit their objection and motion to quash a witness subpoena served on Marcus Wilson, and in support thereof state as follows:

1. On August 9, 2023, Mr. Haysbert signed a subpoena for service to Mr. Seifert, no copy provided to counsel for the defense, and unsigned by local counsel. Local counsel was not involved in any way in the issuance or preparation of this subpoena and did not know about its preparation.

2. On August 11, 2023, the 4th day of trial, the subpoena request was sent to a process serving company in California at 6 am EDT, and 3 am PDT. The subpoena requested the appearance of Marcus Wilson on August 11 and 14. Marcus Wilson was called as a witness midday on August 11 and was not present. Mr. Haysbert never mentioned or represented to the court or counsel that he was pursuing service of Mr. Wilson.

3. When trial day ended at about 6pm on August 11, the Court asked Mr. Haysbert if he had any further witnesses, and he reported that he intended to call Mr. Wilson, and that he had been subpoenaed. The Court required evidence and a partial production was provided that did not occur until almost 7:30 pm. It appears Wilson served at around 5:30pm on August 11 for trial

appearance on August 11 and 14. The Defendants moved to quash the subpoena and the court reserved ruling.

4. The subpoena comes too late, is not timely, was not properly served, and does not comply with the rules. No affidavit of service has been filed or provided to the Court or counsel. Plaintiff's counsel represented that it would only take 24 hours for his process server to finalize the affidavit. It has been more than 24 hours since Mr. Wilson was allegedly served and nothing has been produced.

5. Plaintiff has demonstrated a pattern of serving witness subpoenas too late, last minute and has not prepared this case as if it is actually going to trial. Issuing witness subpoenas at the last minute to Dr. Haider (an unenforceable subpoena in Texas from a Virginia Court on August 4, 2023), a subpoena to Mr. Seifert on August 4, 2023 served on August 7, 2023, and now on Marcus Wilson, after the close of business on August 11, the 4th day of trial comes too late.

6. The court should quash the subpoena to Mr. Seifert.

WHEREFORE, the foregoing considered, Defendants object to the untimely subpoena to Mr. Wilson, as it was not properly issued, signed only by Mr. Haysbert and without any consultation with local counsel, was subpoenaed after the close of business to include August 11, no affidavit of service has been provided, and demonstrates an ongoing pattern of abusive and improper conduct, and moves to quash the subpoena, award costs and attorneys' fees, and revoke the pro hac vice of Mr. Haysbert, for the reasons stated in other filings to this court.

**BLOOMIN' BRANDS, INC. and
OUTBACK STEAKHOUSE OF
FLORIDA, LLC**
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of August, 2023, a true and accurate copy of the foregoing was sent via the CM/ECF system to:

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